

Fw: question on legal costs

Jennifer Lane to: forrest.sabrina

09/20/2011 11:21 AM

From: Jennifer Lane/R8/USEPA/US

To:

Hi Sabrina,
Did you forward this to Richard? Curious of his perspective on this. I'll review the hot topic or whatever you're calling it soon.

Jennifer

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----- Forwarded by Jennifer Lane/R8/USEPA/US on 09/20/2011 10:46 AM -----

From: "Peter Butler" <butlerpeter2@gmail.com>
To: "Bill Simon" <wsimon@frontier.net>, "Steve Fearn" <fearneng@rmi.net>, Sabrina Forrest/R8/USEPA/US@EPA, Jennifer Lane/R8/USEPA/US@EPA, "Nabors, Barbara" <Barbara.Nabors@dphe.state.co.us>
Date: 09/18/2011 01:32 PM
Subject: Superfund

FYI – I don't fully understand her last point. –p

From: aliceo@aol.com [mailto:aliceo@aol.com]
Sent: Sunday, September 18, 2011 12:23 PM
To: butlerpeter2@gmail.com
Subject: Superfund

Dear Peter,

Thanks for the excellent tour.

I looked it up, and found an interesting piece of history behind my recollection of Superfund spending 90% on lawyers fees: the number was from an old Cato Institute study back when they were arguing that hazardous waste sites should be managed by private industry.

"A frequently-cited study by Jan Paul Acton and Lloyd S. Dixon at the Institute for Civil Justice found that for a representative sample of insured cleanups in the late 1980s, litigation and related transaction costs averaged 88 percent of total expenses for remediation efforts."

This study was initially published in 1993, got a lot of attention and sparked a government investigation around 1994-5; a 1995 CBO study found that Superfund legal fees accounted for 1/4 to 1/2 of the costs at

that time (about 25% for large projects, 50% for small projects).

Since then, legal costs have dropped; a 2009 GAO study showed that legal challenges have dropped by 50% since the early 90s. Transaction costs are no longer broken out as a \$ amount, but if they scaled then they'd now account for roughly 25% of small projects.

Too bad I was so wrong about the legal fees, because there's a valid point that if this project is like most other Superfund projects, then transaction costs will increase.

Woops, and Thanks again for the tour

Alice